

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ELVIS FEOLA,

Plaintiff,

-against-

SUSAN MUELLER, et al.,

Defendants.

No. 23-CV-3393 (LAP)

ORDER

LORETTA A. PRESKA, Senior United States District Judge:

Before the Court are counsels' letters with respect to Plaintiffs' request that the Court so-order in the above-captioned case and in the related cases listed below (the "Tranche I Cases") certain discovery orders entered in Allen v. Koenigsmann, 19-cv-8173. (See dkt. nos. 52, 55, 56; see also Ortiz v. Dinello, 23-cv-3547, dkt. no. 90.)

The Court finds that the substance of the Stipulation of Confidentiality and Protective Order, so-ordered in Allen on August 12, 2021, (see Allen, 19-cv-8173, dkt. no. 283) (the "Protective Order"), as clarified by the order dated December 13, 2021, (see Allen, 19-cv-8173, dkt. no. 330) (the "QA and QI Order") remains largely applicable to the Tranche I Cases. The Court also finds that the substance of the HIPAA Qualified Protective Order for Materials Produced by Defendants or NYS DOCCS, so-ordered by the Court in Allen on November 2, 2021, (see Allen, 19-cv-8173, dkt. no. 317) (the "HIPAA Protective

Order,” and, together with the Protective Order and the QA and QI Order, the “Allen Discovery Orders”), is also largely applicable to the Tranche I Cases.

However, as Defendants have noted, the Court entered the Allen Discovery Orders when the parties were engaging in discovery in anticipation of the Court’s ruling on Plaintiffs’ motions for class certification in Allen. The Court takes Defendants’ point that the Tranche I Cases are individual damages cases whose procedural postures are distinct from when the Court entered the Allen Discovery Orders, in that there is presently no anticipation of a ruling on class certification.

Accordingly, the parties shall confer and propose in the above-captioned case and the other Tranche I Cases a protective order that includes the relevant terms from and effects of the Allen Discovery Orders. However, such proposed protective order shall include language updated both to reflect the current procedural posture of the above-captioned case and the other Tranche I Cases and accommodate appropriately all factual and legal developments that have occurred in the Tranche I Cases since the Court entered the Allen Discovery Orders.

The Court separately holds that the Protective Order Regarding Derrick Williams, filed under seal in Allen (the “Williams Protective Order”), remains applicable to the Tranche I Case Williams v. Dinello, 23-cv-3608. Accordingly,

the Court will so-order the Williams Protective Order under seal in Williams, 23-cv-3608.

As requested by Plaintiffs' counsel, (see dkt. no. 56), the Court will hold in abeyance Plaintiffs' request to conduct de bene esse depositions. Plaintiffs shall inform the Court when they wish to renew their request.

The Clerk of the Court shall close docket entry 52. The Clerk of the Court shall also docket this order in each of the following cases listed below and close each of the docket entries listed below.

- Allah v. Dinello, 23-cv-3286: close docket number 106.
- Alston v. Mueller, 23-cv-3290: close docket number 63.
- Bernard v. Dinello, 23-cv-3323: close docket number 65.
- Crichlow v. Dinello, 23-cv-3386: close docket number 66.
- Dunbar v. Hammer, 23-cv-3391: close docket number 41.
- Frateschi v. Hammer, 23-cv-3394: close docket number 49.
- Hale v. Mueller, 23-cv-3396: close docket number 27.
- Jacks v. Mueller, 23-cv-3288: close docket number 76.
- Jacobs v. Mueller, 23-cv-3606: close docket number 50.
- Locenitt v. Dinello, 23-cv-3399: close docket number 107.
- Marcial v. Mueller, 23-cv-3455: close docket number 69.
- Miller v. Hammer, 23-cv-3462: close docket number 36.
- Oleman v. Hammer, 23-cv-3607: close docket number 45.
- Ortiz v. Dinello, 23-cv-3547: close docket number 88.

- Perez v. Dinello, 23-cv-3300: close docket number 68.
- Reyes v. Dinello, 23-cv-3315: close docket number 60.
- Rivera v. Hammer, 23-cv-3700: close docket number 59.
- Rosado v. Mueller, 23-cv-3718: close docket number 88.
- Van Guilder v. Mueller, 23-cv-3398: close docket number 66.
- Wilkerson v. Hammer, 23-cv-3397: close docket number 81.
- Williams v. Dinello, 23-cv-3608: close docket number 64.

SO ORDERED.

Dated: March 4, 2024
New York, New York

A handwritten signature in black ink, reading "Loretta A. Preska". The signature is written in a cursive, flowing style. The first name "Loretta" is written in a larger, more prominent script, followed by "A." and "Preska". The signature is positioned above a horizontal line.

LORETTA A. PRESKA
Senior United States District Judge